

District: Kolkata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

APPELLATE SIDE

In the matter of:

Shri Vijay Agarwal

Versus

Life Insurance Corporation of India and others

SYNOPSIS

The petitioner is a law-abiding and peace-loving citizen of India. This is the fifth round of litigation between the petitioner and the respondents. Earlier, against the order dated 21.05.2014 passed by the Appellate Authority, the petitioner had filed Writ Petition No. 18354 (W) of 2014 before this Hon'ble Court. The impugned order was assailed on the ground that the petitioner was not given effective opportunity of hearing before the Appellate Authority and that the authority arbitrarily upheld the order of termination of his agency. This Hon'ble Court vide order dated 16.08.2016 disposed of the writ petition with a direction that the termination of agency shall be kept in abeyance and that the petitioner be given an opportunity of personal hearing by respondent no. 4, and a reasoned order be passed thereafter.

Vide letter dated 21.09.2016, the petitioner was asked to be present before the Zonal Manager on 27.09.2016 for a personal hearing. The petitioner attended the hearing and submitted letters dated 21.09.2013 issued by Prof. C.R. Ghose and Dr. Aloke Kumar Choudhary, the opinion of the Document Examiner dated 28.05.2013, and the Xerox copy of the Proposal Review Slip showing the registration date as 31.03.2004. However, contrary to the order of this Hon'ble Court, the Appellate Authority passed a cryptic order dated 08.11.2016 upholding the conclusion of the Disciplinary Authority.

The impugned order runs into eight pages, with seven and a half pages narrating the history of the case, and only one paragraph evaluating the documents and submissions. Non-application of mind is writ large on the face of the impugned

order. The order reflects mechanical disposal without conscious application of mind and is therefore liable to be set aside. The Court had specifically directed that a reasoned order be passed. The cryptic order amounts to deliberate disobedience of the Hon'ble Court's directions.

The impugned order was passed with a closed mind. Hearing requires wholehearted attention, alertness, and application of mind. Non-application of mind not only makes a decision ultra vires but also mala fide. In the present case, the impugned order smacks of arbitrariness and therefore is liable to be quashed. The final order imposing penalty of termination of agency and forfeiture of all renewal commissions dated 10.03.2007 under Rule 16(1)(a) & (b) and Rule 19(1) read with Rule 10(6) of LIC of India (Agents) Rules, 1972, is bereft of cogent reason and is not sustainable in law.

The essential element under Rule 19(1) is "fraud." Fraud was not established. The Appellate Authority merely stated four grounds for alleging fraud without any proper reasoning. The absence of reasoning proves non-exercise of discretion and failure to disregard extraneous considerations. The Hon'ble Supreme Court has repeatedly held that mere recording of "having perused the record" or "on the facts and circumstances" does not satisfy the requirement of a reasoned order. Open justice requires that reasons be recorded. A decision not based on evidence but on conjectures and surmises is biased.

The petitioner was denied a proper opportunity of hearing. A fair hearing must be real, reasonable, and effective, not a mere formality. The Hon'ble Supreme Court has held that absence of a reasoned order converts administrative

powers into tools for harassment. Thus, the impugned order is not sustainable.

The petitioner was an LIC agent with Agency Code No. 97633411 attached to Salt Lake Branch under KSDO. The petitioner became an agent in 1988 and worked with utmost honesty and integrity, bringing in proposals worth Rs. 8 crores annually with yearly premium collection of Rs. 40 lakhs, and total business of more than Rs. 100 crores. He qualified for the Chairman's Club in 1992 and consistently qualified for the Million Dollar Round Table for 12 years. He held prestigious positions, was a founder member of LIC's Corporate Club, and served as a direct agent for more than 18 years.

In February 2004, the petitioner submitted a proposal for one Prosenjit Das, aged 23 years, after making due enquiries and submitting a Moral Hazard Report. The proposer underwent medical examination on 12.03.2004 before authorized LIC doctors and signed in their presence. The proposal was submitted on 25.03.2004 and registered on 31.03.2004. The proposal documents included medical examiner's confidential report, previous policy certificates, the agent's Moral Hazard Report, and declarations signed by Prosenjit Das before medical examiners.

The proposal was scrutinized and approved at Branch, Divisional, and Zonal levels without any objections. Six policies were issued bearing Policy Nos. 423881681 to 423881686. The receipts showed the risk commencement date as 28.02.2004, and were issued on 31.03.2004.

In early May 2004, the petitioner came to know that Prosenjit Das died in a road accident on 10.04.2004. The petitioner informed LIC authorities immediately.

Claim forms were submitted by the nominees on 03.07.2004.

On 10.08.2005, the petitioner received a letter from the Senior Divisional Manager stating that the claims were found to be “bad claims” and his authority to submit Moral Hazard Reports was withdrawn. No communication was made regarding rejection of the death claims before this. A vigilance case was also initiated against him.

On 20.12.2006, a Show Cause Notice was issued proposing termination under Rule 16(1)(a) and (b) and forfeiture of commission under Rule 19(1) read with Rule 10(6).

The allegations were: (i) that the proposals were not signed by Prosenjit Das, (ii) that policies were adjusted against a proposal deposit in the name of R.L. Gupta, (iii) that the proposals were registered after the death of the life assured, and (iv) that the signatures were proved to be forged.

The petitioner responded to the Show Cause Notice on 27.12.2006, stating that the documents bore genuine signatures verified by doctors, and pleaded pardon for any inadvertent mistake. Despite this, the disciplinary authority passed the final order dated 30.09.2013 imposing penalty.

The petitioner filed WP No. 12898 of 2012 challenging the proceedings, which was allowed by the Hon'ble Court on 18.03.2013, setting aside the previous orders due to violation of natural justice, and directing fresh proceedings after providing documents and personal hearing.

The petitioner requested production of relevant witnesses for cross-examination but the LIC refused. The petitioner filed WP No. 24905 (W) of 2013 seeking

this relief. This Hon'ble Court disposed of the petition, allowing calling of relevant witnesses but not obligating LIC to summon employees.

The hearing was fixed on 26.09.2013, after which the disciplinary authority passed the final order again without giving proper consideration to the petitioner's submissions.

The petitioner then filed WP No. 9475 (W) of 2014 to seek disposal of his pending appeal, which was allowed by order dated 16.03.2014 with a direction to pass a reasoned order.

The appellate authority rejected the appeal on 21.05.2014 without recording proper reasons. Against this, the petitioner filed WP No. 18354 (W) of 2014, and this Hon'ble Court again directed the authority to give a meaningful hearing and reasoned order by order dated 16.08.2016.

The petitioner appeared for hearing on 27.09.2016, submitted letters from doctors affirming genuine signatures, document examiner's opinion, and Proposal Review Slip showing registration date as 31.03.2004. Yet the appellate authority passed a cryptic order dated 08.11.2016.

The appellate authority relied upon four circumstances to allege fraud:

1. That the proposal deposits were completed after 16.04.2004 instead of 31.03.2004. The petitioner submitted that the Review Slip clearly recorded the registration date as 31.03.2004 and that preparation of the review slip on 16.04.2004 was merely an internal administrative step without affecting the commencement date.

2. That the nominee was a distant cousin. The petitioner submitted that

under Section 39 of the Insurance Act, nomination is at the discretion of the proposer, and nomination does not create ownership rights. This cannot be treated as a suspicious circumstance.

3. That the petitioner had pleaded for pardon in the Show Cause Reply. The petitioner submitted that the plea was made in good faith under the pressure of financial year-end work and that the mistake was inadvertent. The Corporation accepted the proposal after thorough scrutiny at multiple levels.

4. That the signatures were forged as per the GEQD report. The petitioner submitted that he had furnished independent evidence from two doctors affirming the genuineness of the signatures. The GEQD opinion consisted of only two sentences without any reasoning, making it inadmissible under law. Reliance was placed on the Hon'ble Supreme Court judgment in Murari Lal vs. State of Madhya Pradesh.

Thus, none of the four circumstances alleged by the appellate authority establishes fraud against the petitioner.

Accordingly, the impugned order dated 08.11.2016 is arbitrary, without basis, contrary to law, and liable to be set aside.

List of Dates

Date	Event
1988	The Petitioner, Vijay Agarwal, is appointed as a Life Insurance Agent with the Life Insurance Corporation of India (LIC), attached to Salt Lake Branch, KSDO, Kolkata.
1992 onwards	Petitioner qualifies for the Chairman's Club and becomes a Million Dollar Round Table (MDRT) member multiple times. He also serves as a trainer for LIC agents and earns significant recognition.
13.02.2004	Petitioner introduces an insurance proposal for Prosenjit Das, age 23. The proposal is submitted along with a Moral Hazard Report. Deposit for the proposal is made under BOC No. 11657 in the name of R.L. Gupta, a common LIC practice.
12.03.2004	Prosenjit Das is examined by Dr. C.R. Ghosh and Dr. Debjit Chatterjee. Medical reports are prepared and signed in his presence.
25.03.2004	Proposal papers, including the confidential medical report by Dr. Alope Choudhury, are submitted to LIC.
31.03.2004	Proposal is officially registered by LIC, and six life insurance policies are issued in the name of Prosenjit Das. The date of commencement is noted as 28.02.2004, and receipts are generated for premiums.
May,2004	Petitioner came to learn that Shri Prosenjit Das has died in a road accident on 10 th April, 2004.
22.05.2004	The petitioner informs LIC about the death of Prosenjit Das.

03.07.2004	Claim forms are submitted by the nominees of the deceased to LIC.
05.07.2004	The Branch Manager at Salt Lake receives the claim papers.
10.08.2005	LIC issues a letter stating that the death claim in respect of the six policies is treated as a “bad claim”, and the petitioner’s authorization to issue Moral Hazard Reports is withdrawn.
30.10.2006	LIC suspends the petitioner’s licence pending investigation in Vigilance Case No. VIG/EZ/811/9629 and bars him from bringing in new business.
20.12.2006	LIC issues a Show Cause Notice under Rules 16(1)(a) & (b) and 19(1) read with Rule 10(6) of the LIC (Agents) Rules, alleging that the proposal forms were forged, premiums were adjusted from an unrelated BOC, and that petitioner did not report the death properly.
27.12.2006	Petitioner replies in detail, denying all allegations, submitting that the forms bear genuine signatures authenticated by empanelled doctors, and requesting pardon for any inadvertent mistakes.
10.03.2007	LIC’s Disciplinary Authority passes a final order terminating the petitioner’s agency and forfeiting all renewal commission, citing negligence and misconduct.
April–October 2007	Petitioner files an appeal before the Zonal Manager (Appellate Authority). However, he is not given a hearing, and the appeal is summarily rejected via letter dated 13.10.2007, communicated on 06.11.2007.

29.06.2008	Petitioner files a Memorial before the Chairman of LIC, under Regulation 20 of LIC (Agents) Rules, 1972.
12.08.2009	The Chairman rejects the Memorial without granting personal hearing or examining the medical/legal evidence submitted by the petitioner.
2012	Petitioner files Writ Petition No. 12898 of 2012 before the Calcutta High Court challenging the entire disciplinary process, alleging violations of natural justice.
18.03.2013	The Calcutta High Court allows W.P. 12898/2012, holds that the disciplinary proceedings were in breach of natural justice, and sets aside all previous orders, directing LIC to restart the process after the petitioner's reply with due compliance.
26.07. 2013	the petitioner prayed for leave to examine some of the employees of LIC and the Doctors but the permission was not granted in hearing held on 05.08.2013.
18.07.2013	LIC fixes 05.08.2013 as date for personal hearing before the Disciplinary Authority.
23.07.2013	Petitioner sends a request to LIC, asking for cross-examination of LIC staff and doctors involved in the proposal and policy issuance process.
27.08.2013	Calcutta High Court disposes W.P. 24905 (W)/2013, holding that petitioner can call any relevant witness, but LIC is not obligated to produce them.
18.09.2013	Petitioner sends names of witnesses to LIC for cross-examination.
26.09.2013	Petitioner appears for personal hearing, submits

	detailed representations including opinion of handwriting expert and letters from Dr. C.R. Ghosh and Dr. Alope Choudhury confirming they had examined Prosenjit Das.
29.09.2013	Since the witnesses proposed to be examined by the petitioner, namely C.R. Ghose, Dr Alope Kumar Chowdhury and Dr Debjit were not available, the petitioner asked for another date. This prayer was not considered and the disciplinary authority closed the proceedings.
30.09.2013	Disciplinary Authority again passes an order terminating the petitioner's agency and forfeiting renewal commission, despite evidence and submissions.
30.12.2013	Petitioner files appeal against the fresh termination order before the Appellate Authority (Zonal Manager).
March 2014	As no hearing is granted, petitioner files W.P. No. 9475 (W)/2014 for non-disposal of the appeal.
16.03.2014	High Court disposes the writ petition, directing Appellate Authority to dispose of the appeal within 2 months, with reasons to be recorded.
02.04.2014 & 22.04.2014	Petitioner submits copy of the High Court's order and follows up for hearing.
21.05.2014	Appellate Authority rejects the appeal in a cryptic and unreasoned order, failing to address any evidence or conduct personal hearing.
2014	Petitioner files W.P. No. 18354 (W)/2014, challenging the order dated 21.05.2014 and denial of legal representation.

16.08.2016	High Court allows the writ petition and directs LIC to grant personal hearing to the petitioner and pass a reasoned order. Also stays termination for six weeks.
21.09.2016	LIC issues notice calling the petitioner for hearing on 27.09.2016.
27.09.2016	Petitioner appears and submits: (i) Expert opinion (28.05.2013) confirming Prosenjit Das's signatures were genuine, (ii) Letters from Dr. Ghosh and Dr. Choudhury stating they personally examined the insured, and (iii) Proposal review slip showing registration date as 31.03.2004.
08.11.2016	Appellate Authority passes a mechanical and unreasoned order, upholding termination and forfeiture, without discussing evidence, expert reports, or previous High Court directions.
2023	Petitioner files the present Writ Petition (W.P. No. of 2023) before Calcutta High Court challenging the order dated 08.11.2016 for being arbitrary, non-speaking, and in contempt of the earlier judicial directions.

QUESTION OF LAW INVOLVED

1. Whether the Appellate Authority acted in violation of the directions issued by this Hon'ble Court in order dated 16.08.2016 in W.P. No.

18354(W) of 2014 by failing to pass a reasoned and speaking order, thereby amounting to wilful disobedience and contempt of court?

2. Whether the impugned order dated 08.11.2016 passed by the Appellate Authority suffers from non-application of mind, inasmuch as the reasoning provided therein is mechanical, cryptic, and devoid of independent analysis of the evidence and written submissions made by the petitioner?
3. Whether the reliance placed on the Government Examiner of Questioned Documents, Directorate of Forensic Sciences, hand writing expert's report, which states that the signature on the proposal papers is forged is admissible in the court of law?
4. Whether the Appellate Authority was duty-bound to exercise quasi-judicial functions with conscious application of mind and provide a reasoned order, particularly in light of termination of agency and forfeiture of renewal commission under Rule 19(1)(a) i.e., by proving the fraud on the part of the petitioner?
5. Whether the continued denial of relief to the petitioner, despite four previous favourable orders from this Hon'ble Court, indicates mala fide exercise of power and arbitrary action on the part of the Respondent Corporation?

DISTRICT: KOLKATA

THE HIGH COURT AT CALCUTTA

W. P. No. of 2023

In the matter of:

Writ petition under Article 226 of the
Constitution of India;

And

In the matter of:

Appropriate writ and/or writs, order
and/or orders, direction and/or
directions issued thereunder;

And

In the matter of:

Life Insurance Act and the rules framed
thereunder;

And

In the matter of:

Order dated 8THNOV, 2016 passed by Appellate
authority (Zonal Manager). Life Insurance
Corporation of India;

And

In the matter of:

Failure on the part of the Appellate Authority
Eastern i.e., Zonal Life Manager, Insurance
Zone, Corporation of India to dispose of the
appeal filed under Regulation 20 of

the Life Insurance Corporation of India
(Agents) Rules, 1972;

And

In the matter of:

Vijay Agarwal, residing at 2/3, Judges Court
Road, Flat No. 4D (North), Divine Bliss
Apartment, Kolkata 700 027.

...Petitioner

Versus

1. Life Insurance Corporation of India, service
through the Chief Secretary, Life Insurance
Corporation of India, Yogakshema, Jeevan
Bima Marg, Mumbai- 400 021.

2. The Chairman, Life Insurance Corporation
of India, Yogakshema, Jeevan Bima Marg,
Mumbai- 400 021.

3. The Managing Director, Life Insurance
Corporation of India, Yogakshema, Jeevan
Bima Marg, Mumbai- 400 021.

4. The Zonal Manager, Eastern Zone, Life
Insurance Corporation of India, 4, Chittaranjan
Avenue, Hindusthan Building, Kolkata -700
072.

5. The Divisional Manager, Life Insurance
Corporation of India, KSDO, DD-5, Salt Lake
City, Kolkata- 700 064.

6. The Branch Manager, Salt Branch, Life
Insurance Lake Corporation of India, CF-335,
Salt Lake City,

Kolkata- 700 064.
...Respondents

To

The Hon'ble Mr. Arun Mishra, Chief Justice, and His companion
Justices of this Hon'ble Court.

The humble petition of the petitioner above
named most respectfully-

S H E W E T H:

1. That the petitioner is a law abiding and peace-loving citizen of
India.

It is most humbly and respectfully submitted here that this the Fifth
round of litigation between the petitioner and the respondents. It is
pertinent to mention here that earlier against the order dated 21.05.2014
passed by the Appellate Authority the petitioner herein filed writ petition
No. 18354 (W) of 2014 before this Hon'ble Court. The impugned
order dated 21.05.2014 was assailed inter alia on the ground that the
petitioner was not given effective opportunity of herein before the
Appellate Authority and the appellate authority arbitrarily upheld the
order of termination of his agency passed by the disciplinary authority.

This Hon'ble Court vides its order dated 16.08.2016 disposed off the writ petition inter alia with the following observation:

“It is tirade law that hearing before a quasi-judicial tribunal ought to be an effective one and therefore the prayer for adjournment of such hearing on the face of denial of the plea for legal representative ought to have been granted so as to enable `a lay person to prepare himself and effectively assist the tribunal in the course of the hearing of the appeal. Under such circumstances, I direct the impugned order of termination of agency of the petitioner shall be kept in abeyance for a period of six week from date within which period the petitioner shall be given an opportunity of personal hearing by the Respondent no.4 and upon considering his oral submissions including the written submissions, if any, the respondent no.4 shall pass a reason order in the appeal filed by the petitioner. In the event, the petitioner fails to appear before the respondent no.4 on the date fixed for such hearing, it shall be open to the respondent no.4 to close hearing of the appeal and the impugned order shall stand revived.”

Vide letter dated 21.09.2016 the petitioner was asked to be present before the Zonal Manager on 27.09.2016 for a personal hearing.

The petitioner attended the meeting held on 27.09.2016. The petitioner submitted copies of the letters of Prof. C.R. Ghose dated 21.09.2013 and Dr. Alope Chaudhary dated 21.09.2013. The petitioner also submitted the opinion of the Document Examiner with enclosure dated 28.05.2013 contending that he examined the signatures on Xerox Copies of the documents containing the signatures of Prosenjit Das. The petitioner also produced Xerox copy of the proposal review slip with the noting therein “LIC of India. Branch -41 B, Division Dt. 16.04.2004 Proposal Review Slip, Registration Date; 31.03.2004 on the life of Prosenjit Das”

However, contrary to the above-mentioned order of this Hon’ble Court, the Appellate Authority passed a cryptic order dated 08.11.2016 and upheld the conclusion of the Disciplinary Authority in order dated 30.09.2013 and decision of the Disciplinary Authority.

It is most humbly and respectfully submitted here that though the impugned order runs in eight pages, seven and half pages are dedicated to narration of the history of the case and only in one paragraph the matter is summed up which includes evaluation of the documents on record, submissions of the petitioner herein and the analysis of the appellate Authority. Non application of mind is writ large on the face of the impugned order itself. The order of the Appellate Authority in the present case does not reflect its conscious application of mind. The impugned order has been passed in a most mechanical manner and is therefore liable to be set aside.

It is further humbly and respectfully submitted here that this Hon'ble Court while disposing of the writ petition No. 18354 (w) of 2014 in its order dated 16.08.2016 specifically directed the respondent to pass a reasoned order in the appeal filed by the petitioner herein. The cryptic order passed by the respondent is a deliberate and willful disobedience of the above-mentioned order dated 16.08.2016 of this Hon'ble Court and therefore the Zonal Manager (Appellate Authority) who passed the impugned order dated 08.11.2016 must be held liable for the contempt of this Hon'ble Court.

It is humbly submitted here that the impugned order itself indicates that the Appellate Authority proceeded with a closed mind as it had already made up its mind to impose penalty on the petitioner. Hearing in a matter is required to set the "law in motion" or to exercise a power conferred by

law on an Authority. It is well settled principle of law that no order to the detriment of a person can be passed without hearing him and Hearing in this context means a Fair hearing. Hearing to be fair must be “at a meaningful time and in a meaningful manner”. For a hearing to be fair, whole hearted attention, alertness and active application of mind of the decision maker is indispensable. Non application of mind is fatal to fair hearing. Non application of mind not just makes the decision “Ultra vires” but also the decision becomes “mala fide”. In the present case the impugned order smacks of arbitrariness and therefore liable to be quashed.

The final Order on 10.03.2007 imposing penalty of termination of agency of the petitioner and also forfeiture of all renewal commission payable to the petitioner, was in compliance with Rule 16(1)(a) & (b) and under Rule 19(1) read with Rule 10(6) of LIC of India (Agents) Rules, 1972. bereft of any cogent reason is not sustainable in law. It is pertinent to mention that the most essential element of Rule 19(1) of the LIC Agents Rule is “Fraud”. The rule clearly states that *“in the event of termination of the appointment of an agent, except for fraud, the commission on the premium received in respect of the business of the business”*. The Appellate Authority while passing the order of penalty cannot obviate its duty to apply a judicial mind and to record reasons for the purpose of deciding whether any penalty is to be imposed or not. The Appellate Authority has failed to establish that any fraud was committed on the part

of petitioner, and they have simply stated without any reasoning, three grounds as to why they think fraud has been committed. The importance of assigning reasoning for inflicting the penalty can never be undermined. The sound reasoning in a particular case is reassurance that discretion has been exercised by the decision maker after Complete absence of reasoning in the present case proves the fact that the Appellate Authority has not exercised the discretion after considering all the relevant grounds and that extraneous consideration have not been disregarded.

It has been repeatedly held by the Hon'ble Supreme Court that 'Merely recording "having perused the record" and "on the facts and circumstances of the case" does not subserve the purpose of a reasoned order.

The Hon'ble Supreme Court in catena of cases have held that it is fundamental premises of open justice, to which our judicial system is committed, that factors which have weighted in the mind of the judge in granting or rejecting claim are recorded in the order itself. Open justice is premised on the notion that JUSTICE SHOULD NOT ONLY BE DONE, BUT SHOULD MANIFESTLY AND UNDOUBTEDLY BE SEEM TO BE DONE. The duty of the deciding Authority to give reasoned decisions lies at the heart of this commitment.

The decision of the Appellate Authority is not based on evidence but merely on conjectures and surmises. It has been repeatedly held that a decision not based on evidence is biased. Bias affects a fair decision.

Further, proper opportunity of hearing was not given to the petitioner. The opportunity of being heard should be real, reasonable and effective. The same should not be for the name-sake. It should not be a paper opportunity and should not be a mere empty formality.

The Hon'ble Supreme Court in various judgements have held that it is obligatory on part of the Authority to pass a reasoned order while

exercising statutory jurisdiction. In the absence of a reasoned order, it would become a tool for harassment.

Since the impugned order passed by the Appellate Authority is in teeth of the order dated 16.08.2016 of this Hon'ble Court and the law as laid by the Hon'ble Supreme Court in catena of cases, the impugned order of the Appellate Authority is not sustainable in law and is liable to be set aside. Hence the present humble petition is being filed.

2. *That relevant facts and circumstances leading to the filing of the present petition are as under;*

That the petitioner was Agent of LIC of India having Agency Code No. 97633411, attached to Salt Lake Branch under KSDO. The petitioner became the agent of LIC of India in the year 1988 and thereafter all these years the petitioner worked with utmost honesty and integrity for the Corporation. The petitioner brought proposals to the Corporation estimating at an average Rs. 8 crores per annum with yearly payment of premium of more than Rs. 40 Lakhs. The total business given by the petitioner to the Corporation is more than 100 crores.

a. The respondent No.1 is Life Insurance Corporation of India, a statutory body within the meaning of Article 12 of the Constitution of India and having its head office at the address mentioned in the cause title. The respondent No.2. is the Chairman of the respondent No.1 organization and is the final authority in all disciplinary matters. against the agents of Life Insurance Corporation of India. The respondent No.3 is the Managing Director of the

respondent No.1 organization and is responsible for the overall functioning of the organization. The respondent No.4 is the Zonal Head for the Eastern Zone of the respondent No.1 organization and is responsible for the overall functioning of the organization in the Eastern Zone and is also the Appellate Authority for disciplinary proceedings initiated against agents of Life Insurance Corporation of India. The respondent No.5 is the Divisional Head of the Salt Lake Branch of Kolkata, Suburban Divisional Office of Life Insurance Corporation of India and is the Disciplinary Authority for proceedings initiated against agents of Life Insurance Corporation of India. The respondent No.6 is the Head of the Salt Lake Branch of the respondent No.1 organization being the Branch where the petitioner was attached at the relevant time.

b. That the petitioner qualified for the Chairman's Club in the year 1992 and has also been qualifying for the Million Dollar Round Table of LIC agents for the last 12 years. Your petitioner has occupied various prestigious

positions as an agent of LIC for since the year 1989. The petitioner also occupied the first position in the club for four years. Your petitioner was invited as a teacher to training classes for agents of LIC at the training centre both at the Divisional Level Training Centre as also at the Zonal Level Training Centre. The petitioner has also been a regular invitee by most of the branches of LIC and at the divisional offices for motivating other agents of LIC. Your petitioner is a founder member of the Corporate Club of LIC and had been working-as a direct agent of LIC for more than 18 years i.e., up to March, 2007. A compilation of the achievements of your petitioner as an agent of LIC is annexed hereto and marked with the letter "P-2".

c. That petitioner humbly submits that in an around 13th February, 2004 petitioner brought in a proposal of one Prasenjit Das, aged about 23 years for an insurance policy with LIC. This being the 1st Policy of Prasenjit Das through the petitioner, the petitioner duly caused enquiries and submitted his Moral Hazard Report along with such proposal. The petitioner humbly submits that

the petitioner thought that the proposal was genuine and would mature into a policy. The proposal being rather large attracted special reports, which were done by various medical laboratories authorized by LIC for the purpose. The proposer duly underwent medical examination from the authorized medical examiner of LIC on 12th March, 2004 and the proposer duly signed the same in the presence of the authorized medical officer. The petitioner humbly submits that the authorized medical examiner as per practice directly sent the proposal to the respondent No.6. The petitioner subsequently learnt that such proposal along with medical report was submitted on 25th March, 2004 and the same was registered on 31st March, 2004. A copy of the proposal along with enclosures are collectively annexed hereto and marked with the **letter "P-3"**.

d. That as would appear from the said proposal form, the same has been duly signed by Prosenjit Das at different pages thereof. The proposal form also contained as an enclosure thereto the following documents:

- i) The medical examiner's confidential report which is dated 25th March, 2004 and is signed by Dr. Alope Kumar Chowdhury duly declaring that he has examined Prosenjit Das who has signed on the said report and further certified that the said Doctor is not related to him or the agent or the Development Officer.
- ii) The policy certificate standing in the name of the proposer pertaining to a previous policy to show the date of birth of the proposer.
- iii) The moral hazard report prepared by the agent duly signed by the appellant.
- iv) Declaration by Prosenjit Das signed by him before the medical examiner, Dr. Alope Kumar Choudhury on 25th March, 2004 and Dr. Debjit Chatterjee and Dr. C. R. Ghosh on 12th March, 2004 with regard to the different parameters of his physical health together with the ECG report and blood reports which also show examination done on 12th March, 2004.

e. That the proposal was duly scrutinized by different authorities of Life Insurance Corporation, particularly the Branch Manager, Salt Lake and thereafter by Divisional Manager, Life Insurance Corporation of India. The said authorities found the proposal to be in order and no defect or deficiency was detected and/or pointed out during scrutiny and accordingly, six different policies were issued in the name of the proposer, details of which are given below:

Sl. No	Policy No.	Sum Assured	Quarterly Premium (Half yearly)
1.	423881681	Rs.1,01,000/-	587
2.	423881682	Rs.1,01,000/-	627
3.	423881683	Rs.1,01,000/-	631
4.	423881684	Rs.1,01,000/-	615
5.	423881685	Rs.1,01,000/-	567
6.	423881686	Rs.10,00,000/ -	1,325

f. The receipts issued in respect of the aforesaid different policies as stated above are collectively annexed hereto and marked with the letter "P-4".

It is humbly submitted here that all the said receipts duly show date of risk i.e. the date of commencement of the policy as 28th February, 2004. However, the receipts are all dated 31st March, 2004, issued on the basis of the proposals received together with medical examination reports on 25th March, 2004.

g. That in the first week of May, 2004 the petitioner came to learn that Prosenjit Das had died in a road accident on 10th April, 2004 on his way to Digha. Such information was given to the petitioner by the nominees of the deceased. Immediately thereafter the petitioner duly informed the authorities of the death of the proposer on 22nd May, 2004. Claim forms were submitted by the nominees of Prosenjit Das dated 3rd July, 2004 at the office of the Branch Manager, Salt Lake office on 5th July, 2004.

h. That on 10.08.2005 the petitioner received a letter from the Senior Divisional Manager informing him that the claim filed by the nominees of life assured Prosenjit Das pertaining to his six policies have been found to be a case of "bad claim" and on the basis thereof the authority has purportedly decided to withdraw the authority of authorization of any moral hazard report from the petitioner with immediate effect.

A copy of the said communication dated 10th August, 2005 is annexed hereto and marked with the letter "P-5".

It is most humbly and respectfully submitted here that the said purported communication has been issued after expiry of more than a year since the death of Late Prosenjit Das. In fact, there was no communication made to the petitioner regarding the rejection of the claim made by the nominees of Prosenjit Das. Besides the aforesaid several penal action was purported to be taken against the petitioner, namely, a Vigilance Case being Regular Vigilance Case No.VIG/EZ/811/9629 was also initiated and by letter dated 30th October, 2006 the petitioner was asked not to procure any new LIC business till finalization of the said case.

i. That a notice dated 20.12.2006 was issued on the petitioner by the Senior Divisional manager of the Corporation called upon the petitioner to show cause as to why his agency be not terminated under Rule 16(1) (a) and (b) of the LIC of India (agents) Rules, 1972 and his renewal commission be not forfeited under Rule 19(1) read with Rule 10(6) thereof.

j. That as would appear from the said show cause notice the principal allegations contained therein are inter alia as follows:

- i) The petitioner had allegedly introduced policies where the proposed documents were not signed by the Life Assured, Prosenjit Das (since deceased).
- ii) The policies were adjusted against a proposal deposit vide BOC No. 11657 dated 13th February, 2004 in the name of R. L. Gupta and no deposit was made in the name of the deceased policy holder.
- iii) The proposals resulted into policy Nos.
423881681, 423881682, 423881683,
423881684, 423881685, 423881686 on the life
of Prosenjit Das with registration date as 16 April, 2004.
- iv) The policies resulted in a premature death claim, the Life Assured having died on 10th

April, 2004 which was before the registration of the policy even though the proposals were dated 25th March, 2004.

- v) The signature of the Life Assured on the proposal papers and related documents of the policy were proved to be faked and no information about the death of the life assured was sent to the Corporation by the appellant.

On the basis of the aforesaid charges it was alleged that the appellant failed to discharge his function as set out in Rule 8(2)(b) and 8(4) of the LIC of India (Agents) Rules, 1972 and a proposal was given to terminate the agency under Rules 16(1)(a) and (b) of the said Rules and to forfeit renewal commission payable to the appellant under Rule 19(1) read with Rule 10(6) of the said Rules.

- o. That the petitioner responded to the show cause notice on 27.12.2006, specifically contending that the proposal form contains the signature of the deceased and even the other declarations as to his health bear the signature of the deceased duly verified and authenticated by signatures of Medical Experts and Doctors who had personally examined the deceased on the said dates as mentioned in the said reports and certificates. A copy of the letter dated 27th December, 2006 is annexed hereto and marked with the letter "P-7". Although there was a denial of the charges leveled against the petitioner, the petitioner pleaded that he may be pardoned for any unforeseen mistake / negligence.

- p. That entire proceedings initiated against the Petitioner by the Corporation including the order of the Chairman were challenged by the petitioner by way of the Writ petition before this Hon'ble Court. The same was registered as WP No. 12898 of 2012. The WP No. 12898 of 2012 was allowed by this Hon'ble Court vide its order dated 18.03.2013. This Hon'ble Court inter alia held as under:

“The proceedings having been conducted in clear breach of the principles of natural justice, the order of the Chairman and the orders that merged in his order are indefensible. The same are set aside.”

However, the Hon'ble Court ordered as under:

“.... The proceedings must immediately start from the stage after submission of reply given by the petitioner. It is accordingly, directed that the Corporation shall make available to the petitioner, within a fortnight from the date of receipt of a copy of this order, all documents that it seeks to rely on to drive home the allegations leveled

against him. The disciplinary authority shall, thereafter, extend opportunity of personal hearing to the petitioner and ensure that the proceedings are brought to its logical conclusion as early as possible, but not later than September, 2013. At the hearing, the petitioner shall be entitled to submit evidence in support of his defense and raise appropriate contentions, which shall be given the consideration the same deserves.”

- q.** That the petitioner vide its letter dated 23.07.2013 requested the respondents to provide names of certain persons connected with the registration of the proposal forms etc. and to produce them on 05.08.2013 for cross examination. On the other hand, Corporation refused to summon employees or other personnel engaged by the Corporation at the behest of the petitioner and therefore the petitioner was constrained to file a writ petition being WP 24905 of 2013 before this Hon’ble Court.

- r. That this Hon'ble Court vide its order dated 27.08.2013 disposed of the said writ petition with the following observation:

“W.P. No. 24905 (W) of 2013 is disposed of by observing that the authority conducting the enquiry will allow the petitioner to call any witness as long as the evidence is relevant to the issues that arise in the proceedings, but the authority will not be obliged to furnish the name of any employee of the corporation or summon such employees or any other person for the purpose of the petitioner cross examining them”

- s. That thereafter the petitioner sent letter dated 18.09.2013. The petitioner requested the Corporation to allow him to cross examine the witnesses mentioned therein. The Corporation vide its letter dated 19.09.2013 fixed 26.09.2013 for personal hearing of the petitioner. The Disciplinary Authority passed the Final Order dated 30.09.2013. The penalty of termination of agency was imposed on the petitioner and all the renewal commission payable to him was forfeited.

- t. That since the appeal against the order of the termination was not consider and disposed off by the appellate authority, the petitioner filed Writ petition No.9475 (W) of 2014 before this Hon'ble court. Vide order dated 16.03.2014 the Hon'ble Court disposed off the Writ petition with the following observations.

“The Writ petition stands disposed off with a direction upon the appellate authority to dispose off the appeal filed by the petitioner on 30th December, 2014 in accordance with law as early as possible, preferably within two months from the date of receipt of copy of this order.

Needless to observe, if the appeal is rejected must have the support of reasons. On the other hand, id the appeal succeeds, the appellate authority shall proceed to grant such relief to the petitioner as is warranted on facts and in the circumstances of the case”.

- u. That vide latter dated 02.04.2014 the petitioner sent a copy of the order of this Hon'ble Court in Writ petition No. 9475 of 2014. The petitioner also sent letter dated 16.04.2014 and 22.04.2014 to the Corporation and the appellate authority vide its order dated 21.05.2014 rejected the appeal of the petitioner

- v. That against the order dated 21.05.2014 passed by the appellate authority the petitioner herein filed writ petition No. 18354 (W) of 2014 before this Hon'ble Court. The impugned order dated 21.05.2014 was assailed inter alia on the ground that the petitioner was not given effective opportunity of herein before the appellate authority. The petitioner had paid for legal representation which was illegally turned down and the appellate authority arbitrarily upheld the order of termination of his agency passed by the disciplinary authority.

w. That this Hon'ble court vides its order dated 16.08.2016 disposed off the writ petition inter alia with the following observation:

“It is tirade law that hearing before a quasi-judicial tribunal ought to be an effective one and therefore the prayer for adjournment of such hearing on the face of denial of the plea for legal representative ought to have been granted so as to enable `a lay person to prepare himself and effectively assist the tribunal in the course of the hearing of the appeal. Under such circumstances, I direct the impugned order of termination of agency of the petitioner shall be kept in abeyance for a period of six week from date within which period the petitioner shall be given an opportunity of personal hearing by the respondent no.4 and upon considering his oral submissions including the written submissions, if any, the respondent no.4 shall pass a reason order in the appeal filed by the petitioner. In the event, the petitioner fails to appear before the respondent no.4 on the date fixed for such hearing, it shall be open to the respondent no.4 to close hearing of the appeal and the impugned order shall stand revived.”

- x. That the petitioner attended the meeting held on 27.09.2016. The petitioner submitted copies of the letters of Prof. C.R. Ghose dated 21.09.2013 and Dr. Alope Chaudhary dated 21.09.2013. The petitioner also submitted the opinion of the Document Examiner with enclosure dated 28.05.2013 contending that he examined the signatures on Xerox Copies of the documents containing the signatures of Prosenjit Das. The petitioner also produced Xerox copy of the proposal review slip with the noting therein “LIC of India. Branch -41 B, Division Dt. 16.04.2004 Proposal Review Slip (Form No. 3104.01 C) Registration Date; 31.03.2004 on the life of Prosenjit Das”.
- y. That contrary to the order of this Hon’ble Court to pass a reasoned order, the Appellate Authority passed a cryptic order dated 08.11.2016 (impugned order) and upheld the conclusion of the Disciplinary Authority in order dated 30.09.2013 and decision of the Disciplinary Authority.
- z. Because the impugned order primarily relies upon four grounds or circumstances to substantiate the allegation of fraud against the petitioner. The said circumstances are enumerated as follows:
 - aa. **The proposal deposits against the six proposals of Prosenjit Das were actually completed after 16.04.2004 and not 31.03.2004, i.e., the registration date.**

It is respectfully submitted that the proposal deposits in respect of the six proposals pertaining to Mr. Prosenjit Das were completed after 16.04.2004; however, the registration date of the said proposals was 31.03.2004. The proposals corresponding to policy numbers 423881681, 423881682, 423881683, 423881684, 423881685, and 423881686 were duly completed in all respects, including review of the medical reports, issuance of policy numbers, and payment of premiums, as of 31.03.2004. The Appellate Authority has erred in failing to appreciate that these proposals culminated into valid insurance policies as of 31.03.2004 and not on 16.04.2004, as incorrectly alleged by the Life Insurance Corporation of India (LICI).

It is pertinent to note that the Review Slip, a document generated by the LICI, clearly records the registration date as 31.03.2004. The Review Slip is prepared only after receipt of the complete proposal papers by LICI. The recording of 31.03.2004 as the registration date categorically establishes that the proposals had been duly submitted and processed by LICI prior to the said date. The fact that the Review Slip itself was prepared on 16.04.2004 does not alter the original registration date of 31.03.2004.

Furthermore, the Review Slip and the allocation of a registration number to the insured are carried out only after due diligence procedures are completed by LICI, and all relevant information is recorded within the corporation's internal system. Therefore, the mere preparation of the

Review Slip on 16.04.2004 only indicates the internal administrative entry of data by LIC and does not imply that the insurance policies were under any eclipse until that date. The insurance coverage had validly commenced from the registration date of 31.03.2004.

- bb. The nominee in the current policies is a distant cousin, despite the fact that deceased had natural beneficiaries including the father and also two sisters.**

As regards the Appellate Authority's observation regarding the nomination of a distant cousin as nominee, it is respectfully submitted that the choice of nominee under a life insurance policy is purely within the discretion of the proposer/insured and the insurance agent. The deceased insured had natural heirs, namely his father and two sisters; however, the insured, in exercise of his independent discretion, nominated a distant cousin.

It is respectfully submitted that it was not within the domain of the petitioner to question or influence the insured's choice of nominee. Legally, it is well-settled that under Section 39 of the Insurance Act, 1938, the nominee is merely a trustee or agent empowered to receive the policy proceeds on behalf of the legal heirs. The nomination does not create any ownership rights in favour of the nominee; rather, the policy proceeds form part of the estate of the deceased and are subject to succession laws applicable to him.

The Hon'ble Courts across jurisdictions have consistently held that nomination under Section 39 does not confer beneficial ownership upon the nominee but merely entitles him to receive the amount from the insurer. Accordingly, the appointment of a distant cousin as nominee in the present case does not raise any legal infirmity or suspicion about the validity of the proposals or the ensuing insurance policies.

In “*Shipra Sengupta vs Mridul Sengupta & Ors.*” it was held “*that this Court has laid down that a mere nomination does not have the effect of conferring to the nominee any beneficial interest in the amount payable under the life insurance policy, on death of the insurer. The nomination only indicates the hand which is authorized to receive the amount on payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession.*”

- cc. **The Petitioner in reply to the show cause notice, enumerating the allegations issued to him had pleaded for pardon for his mistake/negligence vide a letter dated 27.12.2006, which according to the Appellate Authority was enough to prove the fraudulent act.**

The petitioner respectfully submits that, in his reply to the Show Cause Notice, he did plead for pardon with respect to the alleged mistake or negligence; however, the said plea was made in good faith and in the honest spirit of maintaining the standards expected of a diligent employee. It is submitted that during the financial year-end pressure in

March, owing to extreme workload, the petitioner inadvertently entered the incorrect receipt number — that of Mr. R.L. Gupta — instead of Mr. Prosenjit Das in the relevant proposal form.

It is pertinent to note that the amount deposited by Mr. R.L. Gupta, which had been lying with the Corporation since February 2004, was thereafter appropriated by the Life Insurance Corporation of India (LICI) against the premium payment for the proposal of Late Mr. Prosenjit Das. The proposal, involving a substantial sum, underwent thorough underwriting at three distinct stages — Branch level, Zonal level, and Divisional level — and was duly accepted by LICI without raising any objections, concerns, or queries directed at the petitioner.

Despite a complete review of all necessary documents, including the medical reports, the proposal form, and the premium receipt, the Corporation proceeded to issue the policy without noting any irregularity. It is only subsequent to the unfortunate demise of Mr. Das in a road accident, when the question of settlement of the insurance claim arose, that LICI sought to shift the entire burden of responsibility onto the petitioner and imposed punitive measures against him.

It is respectfully submitted that had the Corporation, at any stage, raised any concern regarding the adjustment of Mr. Gupta's premium against the proposal of Mr. Das, the petitioner would have immediately rectified the mistake and would not have proceeded further in the matter. The failure

of the Corporation to identify or object to the error at the appropriate stage, coupled with its subsequent attempt to singularly blame the petitioner, is unjust, arbitrary, and legally untenable.

- dd. The signatures of Late Mr Prosenjit Das on the proposal forms have been forged and the proposals were submitted after the death of the insured for siphoning a huge amount by the way of death claim in the name of the nominee.**

The petitioner respectfully submits that during the course of the enquiry, he had furnished two letters dated 21.09.2013 from medical professionals, namely, Prof. C.R. Ghose and Dr. Alope Kumar Choudhary. Both these letters categorically stated that the signatures appearing on the medical reports had been executed by the late Mr. Prosenjit Das himself. However, it is submitted that the Life Insurance Corporation of India (LICI) failed to take these letters into consideration during the enquiry proceedings. The petitioner had also specifically requested LICI to undertake a comparison of the signatures appearing on the proposal forms with those on the medical reports. Despite such a request, no such exercise was carried out by LICI. Instead, without considering the material evidence submitted by the petitioner and ignoring the reasonable requests made, the Corporation, acting merely on suspicion, involved the vigilance wing and referred the matter to the Government Examiner of Questioned Documents, Directorate of Forensic Sciences, Ministry of Home Affairs, Government of India ("GEQD"). The referral was for the

limited purpose of ascertaining whether the signatures on the proposal forms were that of Mr. Prosenjit Das. Subsequently, the GEQD rendered an opinion suggesting that the signatures were forged.

It is respectfully submitted that the opinion of the GEQD is wholly disputed and devoid of any evidentiary value in law. The report does not provide any reasoning or analytical basis to substantiate the conclusion arrived at. Notably, the opinion is rendered in merely two sentences despite the alleged examination of 79 documents marked as exhibits for the purpose of comparison. The absence of any reasoning in the report renders it inadmissible as evidence before a Court of law.

In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in **Murari Lal S/O Ram Singh vs State Of Madhya Pradesh** held that *“Expert testimony is made relevant by s. 45 of the Evidence Act and where the Court has to form an opinion upon a point as to identity of handwriting, the opinion of a person ‘specially skilled’ ‘in questions as to identity of handwriting’ is expressly made a relevant fact. There is nothing in the Evidence Act, as for example like illustration (b) to Section 114 which entitles the Court to presume that an accomplice is unworthy of credit, unless he is corroborated in material particulars which justifies the court in assuming that a handwriting expert's opinion is unworthy of credit unless corroborated. The Evidence Act itself (s. 3) tells us that ‘a fact is said to be proved when, after considering the matters before it, the Court either believes it to exist or*

considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists'. It is necessary to occasionally remind ourselves of this interpretation clause in the Evidence Act lest we set an artificial standard of proof not warranted by the provisions of the Act. Further, under Section 114 of the Evidence Act, the Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to facts of the particular case. It is also to be noticed that Section 46 of the Evidence Act makes facts, not otherwise relevant, relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant. So, corroboration may not invariably be insisted upon before acting on the opinion of handwriting expert and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard and fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and decide finally to accept or reject it."

Thus, unless the expert specifically states the reasons for arriving at his conclusion, a mere bald statement that the signatures "do not tally" cannot

amount to a valid expert opinion within the meaning of law. An unreasoned opinion, unsupported by proper analysis, cannot be treated as substantive proof, and consequently, no adverse inference could have been drawn against the petitioner based on such a defective and legally insufficient report.

3. That after taking in consideration all the facts and disputed circumstances the petitioner challenges the impugned order of the Appellate Authority inter-alia amongst the following

GROUND

a. BECAUSE this is the fifth round of litigation before this Hon'ble Court. The petitioner has been forced to approach the Hon'ble Court by way of writ petitions on four earlier occasions in the matter and on all four occasions, finding merits in the case of the petitioner, the

matter has been remanded back for fresh hearing before the Authority.

b. BECAUSE contrary to the order of this Hon'ble Court to pass a reasoned order, the Appellate Authority passed a cryptic order dated 08.11.2016 and upheld the conclusion of the Disciplinary Authority in order dated 30.09.2013 and decision of the Disciplinary Authority.

c. BECAUSE non application of mind is writ large on the face of the impugned order itself. The order of the Appellate Authority in the present case does not reflect its conscious application of mind. Though the impugned order runs in eight pages, seven and half pages are dedicated to narration of the history of the case and only in one paragraph the matter is summed up which includes evaluation of the documents on record, submissions of the petitioner herein and the analysis of the appellate Authority. The impugned order has been passed in a most mechanical manner and is therefore liable to be set aside.

d. BECAUSE this Hon'ble Court while disposing of the writ petition No. 18354 (w) of 2014 in its order dated 16.08.2016 specifically directed the respondent to pass a reasoned order in the appeal filed by the petitioner herein. The cryptic order passed by the respondent is a deliberate and willful disobedience of the above-mentioned order dated 16.08.2016 of this Hon'ble Court and therefore the Zonal Manager (Appellate Authority) who passed the impugned order dated 08.11.2016 must be held liable for the contempt of this Hon'ble Court.

e. BECAUSE the impugned order itself indicates that the Appellate Authority proceeded with a closed mind as it had already made up its mind to impose penalty on the petitioner. Hearing in a matter is required to set the "law in motion" or to exercise a power conferred by law on a Authority. It is well settled principle of law that no order to the detriment of a person can be passed without hearing him and Hearing in this context means a Fair hearing. Hearing to be fair must be "at a meaningful time and in a meaningful manner". For a hearing to be fair, whole hearted attention, alertness and active application of mind of the decision maker is indispensable. Non application of mind is fatal to fair hearing. Non application of mind not just makes the decision "Ultra vires" but also the decision becomes "mala fide". In the present case the impugned order smacks of arbitrariness and therefore liable to be quashed.

f. BECAUSE the order imposing the penalty of termination of the petitioner's agency and the forfeiture of all renewal commissions payable to the petitioner is devoid of any cogent reasoning and is therefore not sustainable in law. It is respectfully submitted that the Appellate Authority has failed to establish the commission of any "fraud" by the petitioner within the meaning of Rule 19(1).

It is a settled principle of law that while passing an order of penalty, the authority concerned is under a mandatory obligation to exercise judicial mind and to record clear and sufficient reasons in support of the conclusion arrived at. The Appellate Authority, in the present case, has failed to discharge this obligation. The impugned order is vitiated by non-application of mind and absence of reasoned findings, rendering it arbitrary, perverse, and liable to be set aside. The three grounds on which the appellate authority seeks to establish fraud are:

- Proposal deposits against the six proposals were completed after 16.04.2004 and not 31.03.2004 (i.e., questioning the registration date and alleging backdating).
- The nominee in the policies was a distant cousin even though the deceased had natural beneficiaries like his father and two sisters.
- The petitioner pleaded pardon in his reply to the show cause notice, which the Authority wrongly treated as an admission of fraud.

- g. BECAUSE the impugned order unequivocally records that the entire allegation of fraud against the petitioner is based solely on the Handwriting Report issued by the Directorate of Forensic Sciences, Ministry of Home Affairs. It is respectfully submitted that the said report is wholly deficient in providing any substantive reasoning or analytical basis for the conclusions drawn therein. The report merely contains a perfunctory conclusion of two sentences, without setting out the methodology, analysis, or the evidentiary material considered for arriving at such conclusion.

It is a settled principle of administrative law that sound reasoning in an order or report serves as a fundamental safeguard, ensuring that the discretion vested in the decision-making authority has been exercised judiciously, upon due consideration of all relevant material, and by eschewing extraneous considerations. The complete absence of any proper reasoning in the present case clearly establishes that the Appellate Authority has failed to exercise its discretion lawfully and has acted in a manner that is arbitrary, unreasonable, and contrary to the principles of natural justice.

- h. BECAUSE it has been repeatedly held by the Hon'ble Supreme Court that 'Merely recording "having perused the record" and "on the facts and circumstances of the case" does not subserve the purpose of a reasoned order.

i. BECAUSE the decision of the Appellate Authority in the present case is not based on evidence but merely on conjectures and surmises. It has been repeatedly held that a decision not based on evidence is biased. Bias affects a fair decision. Thus, the impugned order passed by the Appellate Authority is not sustainable in law.

j. BECAUSE it appears that the Authority is hell bent to punish the petitioner. The petitioner has been made the scapegoat to cover up the illegality committed by the officers and staff of the LIC of India.

k. BECAUSE the Appellate Authority has not given any finding as to how the petitioner was responsible for getting the policies registered on 16.04.2004 against the proposal DATED 23.03.2004.

l. BECAUSE the Appellate Authority has not given any finding on the letter of Dr. C.R. Ghose in which he has categorically stated that he examined the blood of Prosenjit Das.

m. BECAUSE the Appellate Authority has not given any finding on the letter of Dr. Alope Choudhury showing all the noting of health indices of Prosenjit Das and that the said doctor actually examined Prosenjit Das.

n. BECAUSE the LICI wrongly terminated the agency of the petitioner invoking Agents Rule 16.1.a & 16.1.b. There is nothing on record to prove that the petitioner failed to discharge his functions as set out in regulation 8 to the satisfaction of the competent authority or the petitioner acted in a manner prejudicial to the interest of the Corporation.

o. BECAUSE LICl failed to prove any of the charges leveled against the petitioner.

p. BECAUSE the Appellate Authority failed to appreciate that proposals resulted into the policies on the life of the insured with registration date 31.03.2004 and not 16.04.2004 as alleged by the LICl. The Review slip which is a LICl document clearly shows that date of registration is 31.03.2004 and it is pertinent to mention here that review slip is prepared once proposal papers are received by LICl. Date of 3.03.2004 proves that the proposal papers were received by LICl well before 31.03.2004. Though the review slip was prepared on 16.04.2004, the registration date remains 31.03.2004. Review slip and the registration number is issued to the insured only after all the due diligence by LICl is completed and all the above is recorded in the system of the LICl.

q. BECAUSE the Appellate Authority failed to appreciate that allegation of LICl that policies resulted in the premature claim was completely baseless. The insured died of a road accident on 10.04.2004 after the date policies were issued, policy numbers were given and premium receipts were issued by LICl. Thus, it was not case of premature claim. The heading of the premium receipt issued on 31.03.2004 itself reads as under:

‘THE ACCEPTANCE OF THE PAYMENT PLACES THE CORPORATION AT THE RISK FROM THE DATE OF ACCEPTANCE OF THE FIRST PREMIUM CUM ACCEPTANCE

RECEIPTS.”

Further, the death of the insured was not due to medical reasons but because of road accident. Therefore, it cannot be termed as premature claim. It is never the case of the LIC that the insured did not die in a road accident or he died due to medical reasons.

- r. BECAUSE the allegation that the insured did not sign the proposed documents is completely false and baseless. As per LIC rules insured has to sign in front of the doctors who examine him before the policy is issued. The doctors have to personally verify the signatures of the insured. In the present case the four doctors who examined the insured have verified and declared the signature of the insured as true and correct and all of them are paneled doctors of LIC. The letters from the doctors are on record but the disciplinary authority and the Appellate Authority completely ignored them.
- s. BECAUSE the Appellate Authority failed to appreciate that the letter dated 07.01.2005 written by Dr. P. Biswas and produced by the LIC was a manufactured document. It is pertinent to mention here that Dr Biswas under affidavit confirms that insured in the present case was examined on 13.04.2004 but the fact of the matter is that the insured was already dead on 10.04.2004 in a road accident and it is not possible that a dead man came for his examination on 13.04.2004. Dr Biswas and the LIC were trying to mislead the Authorities and the Court. They should be tried for committing perjury.

- t. BECAUSE opinion of the handwriting expert of the LIC cannot be taken as a conclusive proof. It is only in the realm of mere opinion. In fact, the report of the handwriting expert of the petitioner is otherwise. The opinion of the handwriting expert of the LIC cannot overrule the verification of the signatures of the insured by the four senior and qualified LIC empaneled doctors who examined the insured.
- u. BECAUSE even otherwise the impugned order of the Appellate Authority and the Disciplinary Authority is not sustainable in law and is therefore liable to be quashed.
- v. This writ petition is made bona fide and for the ends of justice.

Your petitioner therefore humbly prays Your Lordships for the following orders:

- a) A writ of or in the nature of mandamus do issue commanding the respondents to forthwith quash, rescind and/or cancel the order dated 8th Nov, 2016 passed by the Appellate Authority.
- b) A writ of or in the nature of mandamus do issue commanding the respondents to grant all renewal commission payable to the petitioner, which was forfeited by the respondent.
- c) A writ of or in the nature of prohibition do issue restraining the respondents and/or from

further giving effect of the impugned order
dated 8th Nov, 2016 in any manner whatsoever.

d) Such other and/or further order or orders be made
and/or direction or directions be given as this Hon'ble
Court may deem fit and proper.

And your petitioner, as in duty bound, shall ever pray.